

IN THE SENATE OF THE UNITED STATES.

MARCH 31, 1858.—Ordered to be printed.

Mr. Foot made the following

REPORT.

[To accompany Bill S. 223.]

*The Committee on Foreign Relations, to whom was referred the petition of Frances Ann Macauley, widow of Daniel S. Macauley, late United States consul general at Alexandria, in Egypt, praying compensation for judicial duties performed by her husband under the act of August 11, 1848, have had the same under consideration, and now report:*

It appears from the petition that the late Daniel S. Macauley was, on the 14th day of August, 1848, appointed consul general of the United States at Alexandria, in Egypt, a port belonging to and within the territorial limits of the Turkish empire; that he continued to hold that office and perform its duties up to the time of his death, on the 26th of October, 1852; that, as consul general of the United States at that port, certain judicial duties were devolved upon him by the act of Congress entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries," approved August 11, 1848.

In reply to a letter of inquiry, addressed to him by the committee, the Secretary of State, under date of February 2, 1858, says: "That Mr. Macauley was consul during the period claimed, and that he performed judicial services in that capacity there is no doubt; but whether any services of that kind entitled the minister or consuls of the United States in the Turkish dominions to extra compensation, has always been deemed questionable by this department, which has never sent to Congress an estimate for such compensation."

The performance of the services by Mr. Macauley, and for the time claimed, is thus clearly established by the letter of the Secretary of State. The only question, therefore, remaining to be considered is, whether, under the act aforesaid of the 11th of August, 1848, he is entitled to the compensation asked for.

After prescribing the nature and character of the duties to be performed by the commissioner and consuls of the United States in China,

the 18th section of the act provides: "That, in consideration of the duties herein imposed upon the commissioner, there shall be paid to him, out of the treasury of the United States, annually, the sum of one thousand dollars, in addition to his salary; and there shall also be paid, annually, to each of said consuls, for a like reason, the sum of one thousand dollars, in addition to consular fees."

By the 22d section it is further provided: "That the provisions of this act, so far as the same relate to crimes committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May seventh, eighteen hundred and thirty, and shall be executed in the dominions of the Sublime Porte, in conformity with the provisions of said treaty, by the minister of the United States and the consuls appointed by the United States to reside therein, who are hereby ex-officio vested with the powers herein contained, for the purposes above expressed, so far as regards the punishment of crime."

By the 24th section it is further provided: "That all such officers shall be responsible for their conduct to the United States and to the laws thereof, not only as diplomatic functionaries and commercial functionaries, but as judicial officers when they perform judicial duties, and shall be held liable for all negligences and misconduct as public officers."

From these several provisions of the act under consideration, it is evident that the same class of duties and responsibilities are alike devolved upon the diplomatic and consular agents of both countries; and, in the opinion of the committee, it would seem to be but reasonable to suppose that Congress intended to allow the same measure of compensation to each. To determine otherwise would establish an unjust discrimination between public functionaries performing the same duties and incurring the same responsibilities.

For these reasons, the committee are of opinion that the claimant is entitled to the relief asked for, and report a bill accordingly.